

**INCOMPETENCE AND INSANITY -- Although trial court determines if
defendant is competent, decision is reviewable for abuse of discretion
Revised 12/2009**

The trial court bears the responsibility for determining whether or not the defendant is competent and the trial court need not follow the experts' opinions. *State v. Lara*, 179 Ariz. 578, 580-81, 880 P.2d 1124, 1126-27 (App.1994), *vacated in part on other grounds*, 183 Ariz. 233, 902 P.2d 1337 (1995); *In re Charles B.*, 194 Ariz. 174, 177 ¶ 7, 978 P.2d 659, 662 ¶ 7 (App. 1998). "The trial court has broad discretion in determining whether reasonable grounds exist to order a competency hearing and its decision will not be reversed absent a manifest abuse of discretion." *State v. Amaya-Ruiz*, 166 Ariz. 152, 162, 800 P.2d 1260, 1270 (1990).

However, the trial court's decision on competency will be reversed if the appellate courts find that the trial court abused its discretion. In *State v. Hughes*, 193 Ariz. 72, 969 P.2d 1184 (1998), the trial court found the defendant competent even though all four experts who had examined him were unanimous in their opinion that he was incompetent. The defendant filed a special action in the Court of Appeals challenging the trial court's finding and the Court of Appeals vacated that finding. The Court stated that the record contained "no reasonable evidence to support the trial court's conclusion" that the defendant was competent but malingering:

We recognize that in evaluating the evidence the trial court is not bound by the opinions of experts. However, there must be some basis for rejecting the testimony of experts, such as observations made by the court of the defendant or, perhaps, testimony of counsel. Here, the experts . . . unanimously concluded that petitioner was unable to assist his counsel because of his paranoia. We can find no reasonable evidence to support a rejection of the opinions of four experts, the only experts who testified. There is no reasonable evidence to support the court's finding that petitioner is malingering.

Id. at 77 ¶ 15, 969 P.2d at 1189 ¶ 15.